S.B. CIVIL REVIEW PETITION NO. 6/2006
IN
S.B. MISC. APPEAL NO. 131/2000

Date : 04.05.2006

HON'BLE MR. BHAGWATI PRASAD, J.

Mr. Jagdish Vyas for the appellant.
Mr. N.L. Joshi for the respondent.

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Heard.

Issue notice. Mr. N.L. Joshi accepts notice on behalf of the respondents.

The case comes up for reviewing the order dated 07.03.2006 wherein, inadvertently order passed in some other appeal regarding enhancement of compensation has got incorporated into it. In fact, there was no such appeal for enhancement of the compensation. Learned counsel for the respondent does not dispute the proposition. The review petition is accordingly allowed. The correct order dated 07.03.2006 in S.B. Civil Misc. Appeal No. 131/2000 may be read as under :-

"Heard.

The Tribunal has found that the driver was driving the vehicle without possessing any license. Learned counsel for the claimants relied on a case decided by this Court in the matter of Hari Narayan & Ors. Vs. Topkhana Desh Grah Nirman Samiti Ltd reported in RLW 1997(1) Raj. 660. The same law being not the valid proposition of law in view of the law laid down by the Hon'ble Supreme Court in the matter of National Insurance Co. Vs. Swarn Singh reported in ACJ (2004) 1 Page 1, the Insurance company cannot be held to be liable. Therefore, the appeal of the

Insurance company is liable to be accepted. The liability will now be on the owner of the vehicle. To that extent, the award stands modified. The Insurance company will however follow the directions of the Hon'ble Supreme Court in Swarn Singh's case (supra) and would make good the entire award. What has already been paid is to be recovered from the owner in terms of the said judgment.

The appeal stands allowed accordingly."

(BHAGWATI PRASAD), J.

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